UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.
299980

OCT 23 2008

MEMORANDUM

REPLY TO THE ATTENTION OF:

SUBJECT: ACTION MEMORANDUM - Request for a Time-Critical Removal Action and for an Exemption from the $2 Million Statutory Limit at the DLH Plating Site, Cuyahoga County, Cleveland, Ohio (Site ID #B5NQ)

FROM: James E. Augustyn, On-Scene Coordinator
Emergency Response Branch 1, Section 1

TO: Richard C. Karl, Director
Superfund Division

THRU: Jason H. El-Zein, Chief
Emergency Response Branch 1

I. PURPOSE

The purpose of this memorandum is to request and document your approval to expend up to $2,208,974 to conduct a time-critical removal action at the DLH Plating Site (the Site), in Cleveland, Ohio, and also to request an exemption from the $2 million dollar statutory limit of 42 U.S.C. § 9604 (c). The response actions proposed herein are necessary in order to mitigate threats to public health, welfare, and the environment posed by the presence of uncontrolled hazardous substances at the Site, a former metal plating facility. The hazardous substances include cyanide, acids, caustics, and toxic heavy metal substances (cadmium, chromium, and zinc) in drums, vats, containers and tanks inside and outside of the facility.

The time-critical removal action proposed herein will mitigate the threats by properly identifying, consolidating, packaging, and ultimately removing, and disposing off-site of hazardous substances, pollutants and contaminants. Additional Site activities will include Site security; decontamination of process equipment and the building, as needed; and pumping out of tanks, vats, and floor drains, some of which will need to be dismantled to complete the removal action.

This response action will be conducted in accordance with Section 104(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC §9604(a)(1) to abate or eliminate the immediate threat posed to public health and/or the environment by the presence of the hazardous substances. The uncontrolled conditions of the hazardous substances present at the Site require that this action be classified as a time-critical removal action. The project will require approximately 150 working days to complete.

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The owner and operator of the DLH Plating Company and the owner of the property (Grand Avenue Reality Company) stated that they did not have sufficient funds to remove the threat posed by the hazardous substances, pollutants and contaminants documented by the Northeast Ohio Regional Sewer District (NEORSD), the Ohio EPA (OEPA), and the City of Cleveland's Fire Department.

There are no nationally significant or precedent setting issues associated with the Site. The Site is not on the National Priorities List (NPL).

II. SITE CONDITIONS AND BACKGROUND

The CERCLIS ID # for this Site is: OHN 000 510 286

A. Physical Location and Description

The Site is located at 2801 Grand Avenue, Cleveland, Cuyahoga County, Ohio, 44104 (Figure A-1). The geographical coordinates for the Site are: Latitude 41°29' 5" North and Longitude 81°37'41" West.

The Site is located in a residential and light-industrial area. The Site is immediately surrounded by residential properties (less than 50 feet away) on the northeastern border and other industrial properties border the rest of the Site. The approximately 4-acre Site includes an office building, and one large interconnected building for plating operations. The total approximate size of the building is 50,000 square feet. Several buildings to the southwest of the main building have been recently demolished and the debris remains on Site. A Facility Layout Map with locations of the hazardous substances is provided in Figure A-2.

B. Site Background

Plating and manufacturing activities have been occurring at the Site since the 1880's. The facility has had numerous owners, but electroplating has been the primary industry on the Site for the majority of its operating history. A more detailed description of Site ownership can be found in the Enforcement Confidential Addendum.

The DLH Plating Company is a "job-shop" plating operation that plates steel with zinc and cadmium. At one time, the facility operated as many as seven plating and coating lines. Prior to February 2007, DLH operated an on-site waste water treatment system for hexavalent chrome reduction, cyanide oxidation, and metals flocculation. Hazardous wastes generated at the facility have included F006 waste water treatment sludge along with F007, F008, D003, D006, and D007 spent plating solutions and sludges. DLH Plating Company leases the property from the Grand Avenue Realty Company.

On April 14, 2008, Emergency Response Branch 1 received a referral package from the OEPA requesting assistance in conducting a removal Site evaluation and potential removal action at the DLH Site.

C. Compliance Background

The OEPA, NEORSD, and the Cleveland Fire Department have documented the presence of hazardous substances at the Site.

Northeast Ohio Regional Sewer District (NEORSD):

On September 5, 2007, NEORSD performed an investigation at the facility and found numerous discharge violations relating to cyanide, cadmium, zinc and total metals into the sewer system from the facility. On November 1, 2007, a representative from the NEORSD collected a solid sample from crystallized material on an exterior wall of the facility along Evarts Avenue. The sample results documented high levels of cyanide (2,858 milligrams per kilogram [mg/kg]), cadmium (7,000 mg/kg), and chromium (47.9 mg/kg) on the exterior wall of the facility.

On December 6, 2007, an Administrative Order was issued to DLH Plating by the NEORSD requiring DLH to fix problems associated with the pump house which was believed to be the source of the contamination in the sewer system. The NEORSD referred the Site to the OEPA on December 12, 2007. On December 19, 2007, a Notice of Violation was sent to DLH Plating regarding the violations of the NEORSD Code of Regulations.

On March 31, 2008, NEORSD issued an Administrative Order which required DLH to: block off all access to the sewer system; dispose of all hazardous wastes on Site; and to conduct a groundwater contamination investigation.

On April 15, 2008, a Notice of Violation was sent to DLH Plating and the Grand Avenue Realty Company informing them that they failed to meet the requirements of the March 31, 2008, Order.

On April 16, 2008, NEORSD ordered DLH Plating and the Grand Avenue Realty Company to immediately suspend any and all discharges into the public sewer system.

Cleveland Fire Department:

On March 25, 2008, the City of Cleveland's Fire Department performed an inspection of the DLH Plating facility and found the following significant violations of the City of Cleveland Codified Ordinances:

- There was open burning inside the electroplating building. An illegal "home made" wood burning stove was being utilized to heat the facility.
- The sprinkler system inside the electroplating building was out of service.
- The fire alarm system was out of service.

- There were leaking plating tanks inside the building and spillage of unknown liquids on the floor around the plating tanks.
- There were damaged plating tanks with unknown liquids inside.
- There were numerous holes in the roof leaking rain and debris into the electroplating tanks.
- There were open electrical junction boxes and exposed wiring as well as corroded electrical junction boxes.
- There were numerous electrical extension cords submerged in water used within the plating tanks and surrounding operations.
- There was chemical spillage throughout the process and storage areas of the electroplating building.
- The dikes surrounding the plating tanks were filled with debris.
- There were numerous barrels with hazardous waste that were not labeled or identified. The chemical storage area and containers were not labeled properly.
- There were sludge wastes throughout the electroplating building. Empty plating tanks were being utilized as waste receptacles and contained unidentified liquids.

In a letter hand-delivered to DLH Plating on March 25, 2008, the City of Cleveland's Division of Fire ordered the company to **"IMMEDIATELY CEASE OPERATIONS** of the electroplating tanks and operations at your facility." The letter further directed DLH to immediately abate the hazardous and dangerous conditions at the facility.

On July 14, 2008, in an "Agreed Judgment Entry", in the Cleveland Municipal Court Housing Division, Cuyahoga County, Ohio, DLH Plating, LLC and North Coast Reality agreed to and were issued Permanent Injunction from conducting plating operations at the facility.

Ohio Environmental Protection Agency (OEPA):

During an OEPA inspection on January 4, 2008, the owner of DLH provided the following information: all sewer connections have been blocked off (coordinated with NEORSD); DLH Plating filed for Chapter 11 bankruptcy protection in July 2007; the on-site waste water treatment system was shut down because it cost too much to operate; the gas supply to the facility has been shut off resulting in no heat; and, the last off-site disposal of hazardous waste was on July 14, 2006.

A significant portion of wastes are listed as F006, F007, and/or F008 hazardous wastes comprised of sludges and solutions from electroplating operations where cyanides are used in the process. The waste may also be D002, D003, D006, and/or D007 hazardous waste. On January 14, 2008, OEPA conducted a facility inspection and observed the following wastes and/or hazardous substances at the DLH facility:

1) Unknown waste in four tanks used to hold spent rinse waters in the pump house (waste currently in an on-site frac tank);

2) Unknown waste in six tanks used for waste water treatment;

3) Three holding tanks containing F006 and F008 hazardous wastes;

4) Roll-off box containing F006 and F008 hazardous wastes;

5) Forty-three 20-gallon drums containing sludge from the cadmium line;

6) Fifty-four 55-gallon drums and one tote with unknown contents near the filter press/cadmium line area (reportedly from the building demolition);

7) Several out of service plating vats located along the cadmium line with unknown contents and releases of wastes to the surrounding floor;

8) F007 and F008 sludge located in an out of service Cadmium line along with releases of wastes to the floor and exterior wall;

9) Fourteen totes containing spent plating rinse waters; and

10) Fourteen 55-gallon drums and forty 5-gallon containers with unknown contents located in the chemical storage area;

The majority of the waste containers are open and/or in poor condition. Releases of wastes to the floor and exterior wall were noted in the area of the cadmium line. In addition, the containers and lines are subject to precipitation from wide spread roof damage. All drums/containers/vats require characterization and disposal as well as any liquids spilled on the floor throughout the facility.

On January 17, 2008, OEPA issued a Notice of Violation (NOV) based on the January 4, 2008, inspections. Eighteen violations were listed in the NOV.

On April 15, 2008, OEPA issued a second NOV based on the January 4, 2008, inspection and a subsequent inspection conducted on April 9, 2008. The April 15th NOV documents the facility's failure to address any of the violations listed in the initial January 17th NOV.

U.S. Environmental Protection Agency:

On April 9, 2008, U.S. EPA accompanied OEPA, Cleveland Fire Department, and NEORSD representatives on an inspection of the facility. All violations listed in the January 17, 2008, NOV were observed during the Site visit. OEPA formerly referred the DLH Plating Site to the U.S. EPA on April 14, 2008.

On June 20, 2008, U.S. EPA issued a General Notice of Potential Liability to the President of DLH Plating and to Grand Avenue Reality Company leasing the property to DLH Plating. On July 17, 2008, a General Notice Letter of Potential Liability was sent to the Eastern Company, the parent company of a previous owner/operator of the Site.

Grande Avenue Realty responded to the notice letter and indicated that they requested a twenty day extension to respond and would provide a detailed description of planned voluntary cleanup activities. U. S. EPA never received a voluntary cleanup plan from the Grande Avenue Realty Company. U.S. EPA did not receive a response from DLH Plating. The Eastern Company indicated in their response to EPA that the Eastern Company has no involvement with the materials which may be present at the Site.

According to the Region V Superfund Environmental Justice Analysis, in Ohio the low income percentage is 30% or greater and the minority percentage is 16% or greater. To meet the Environmental Justice (EJ) criteria, the area within one mile of the Site must have a population that's twice the state low income percentage and/or twice the state minority percentage. At the Site, the low income percentage is 77% and the minority percentage is 96%, see Attachment III. Therefore, this Site does meet the Region's EJ criteria based on demographics as identified in Region V's "Interim Guidelines for Identifying and Addressing a Potential EJ Case" June 1998.

III. THREATS TO PUBLIC HEALTH, WELFARE, OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

The conditions present at the DLH Plating Site present an imminent and substantial threat to the public health, or welfare, and the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), as amended, 40 CFR Part 300. These factors include, but are not limited to, the following:

1) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

No substantial changes have taken place on the Site since U.S. EPA's visit on April 9, 2008. All facility process equipment, tanks, and chemical storage areas contain wastes as they existed when the facility was operating.

According to historic OEPA records and generator knowledge from the facility operator, the following wastes codes were routinely used to dispose of hazardous waste from the facility's operations: D002 (corrosivity), D003 (reactivity), D006 (Cadmium), and/or D007 (Chromium), F006, F007, and/or F008 hazardous wastes comprised of sludges and solutions from electroplating operations where cyanides are used in the process.

U.S. EPA anticipates any and all of the wastes referenced above remain on Site in various locations and quantities. Full characterization and quantification will take place on Site once removal activities are initiated.

Pursuant to 40 CFR 261.22 (a)(1), these materials are considered to be hazardous based on the RCRA characteristic of corrosivity (U.S. EPA Hazardous Waste Code D002), which states: "a solid waste exhibits the characteristic of corrosivity if a representative sample is aqueous and has a pH less than or equal

to 2 Standard Units (s.u.) or greater than or equal to 12.5 s.u., as determined by a pH meter."

Pursuant to 40 CFR 261.23 (a)(5), these materials are considered to be hazardous based on the RCRA characteristic of reactivity (D003), which states, "a solid waste exhibits the characteristic of reactivity if a representative sample is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 s.u., can generate toxic gases, vapors, or fumes in a quantity sufficient to present a danger to human health or the environment."

Cyanide (F006, F007, F008) - Cyanide is usually found joined with other chemicals to form compounds. Examples of simple cyanide compounds are hydrogen cyanide, sodium cyanide and potassium cyanide. Certain bacteria, fungi, and algae can produce cyanide, and cyanide is found in a number of foods and plants. Hydrogen cyanide is a colorless gas with a faint, bitter, almond-like odor. Sodium cyanide and potassium cyanide are both white solids with a bitter, almond-like odor in damp air. Cyanide and hydrogen cyanide are used in electroplating, metallurgy, organic chemicals production, photographic developing, manufacture of plastics, fumigation of ships, and some mining processes. Exposure to high levels of cyanide for a short time harms the brain and heart and can even cause coma and death. Workers who inhaled low levels of hydrogen cyanide over a period of years had breathing difficulties, chest pain, vomiting, blood changes, headaches, and enlargement of the thyroid gland. Some of the first indications of cyanide poisoning are rapid, deep breathing and shortness of breath, followed by convulsions (seizures) and loss of consciousness. These symptoms can occur rapidly, depending on the amount eaten. The health effects of large amounts of cyanide are similar, whether you eat, drink, or breathe it; cyanide uptake into the body through the skin is slower than these other means of exposure. Skin contact with hydrogen cyanide or cyanide salts can irritate and produce sores.

Cadmium (D006) - Cadmium is a natural element in the earth's crust. It is usually found as a mineral combined with other elements such as oxygen (cadmium oxide), chlorine (cadmium chloride), or sulfur (cadmium sulfate, cadmium sulfide). All soils and rocks, including coal and mineral fertilizers, contain some cadmium. Most cadmium used in the United States is extracted during the production of other metals like zinc, lead, and copper. Cadmium does not corrode easily and has many uses, including batteries, pigments, metal coatings, and plastics. Breathing high levels of cadmium severely damages the lungs and can cause death. Eating food or drinking water with very high levels severely irritates the stomach, leading to vomiting and diarrhea. Long-term exposure to lower levels of cadmium in air, food, or water leads to a buildup of cadmium in the kidneys and possible kidney disease. Other long-term effects are lung damage and fragile bones. Skin contact with cadmium is not known to cause health effects in humans or animals. The Department of Health and Human Services (DHHS) has determined that cadmium and cadmium

compounds may reasonably be anticipated to be carcinogens. Cadmium is also listed under D006 as a hazardous waste.

Chromium (D007) - Chromium is a naturally occurring element; however, hexavalent chromium is generally produced by industrial processes such as chrome plating and finishing. The health effects of exposure to trivalent and hexavalent chromium has been researched and is well documented. Existing information about chromium, especially hexavalent chromium, is mainly related to worker exposure. Plating industry workers and workers in other industries utilizing chromium are most susceptible to toxic levels. Hexavalent and trivalent chromium can be toxic at high levels; however, hexavalent chromium is the most toxic. Chromium is also listed under D007 as a hazardous waste. According to the National Institute of Occupational Safety and Health (NIOSH), the immediately dangerous to life and health (IDLH) level for chromium is 250 micrograms per cubic meter (mg/m3).

Unrestricted access onto the Site could result in trespassing and an accidental or intentional release of hazardous material, contact with hazardous materials, and/or a reaction generating toxic gases. The close proximity of residences and other vulnerable areas immediately surrounding the Site would greatly increase the likelihood of human health and environmental impacts, should such an occurrence take place. The tanks and drums of material are located inside the building with little to no secondary containment. Observations at the facility evidence significant roof damage in numerous areas at the facility which may cause tanks and vats to overflow and release their contents onto the ground. Contaminants may flow unimpeded into the street and the combined storm sewer. Samples collected by NEORSD on the exterior walls of the facility document the presence of contaminants outside of the building. Potential exposure could occur through each of these migration pathways and cause imminent endangerment to human health and the environment.

Exposure pathways include direct contact and inhalation associated with open tanks of acid and caustic liquid.

2) **Actual or potential contamination of drinking water supplies or sensitive ecosystems.**

The location of the tanks and drums of material inside and outside the building, under a leaking roof, and with no secondary containment are such that drinking water and sensitive ecosystems may be affected. The U.S. EPA, OEPA, NEORSD, and the City of Cleveland's Fire Department documented rain water leaking through the roof and into some of the plating tanks, which may cause them to overflow. Contaminants may flow unimpeded into the street and storm sewer and eventually into Lake Erie.

Numerous communities throughout Ohio utilize water from Lake Erie as their primary source of drinking water. Pollutants that enter the Lake can be retained for a long period of time and impact sensitive ecosystems. The NEORSD has ordered DLH Plating to conduct a groundwater investigation as they believe some of the contaminants that are present in the sewer system have infiltrated via groundwater migration.

3) **Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;**

During Site inspections by the NEORSD, OEPA, and the City of Cleveland's Fire Department, the inspectors observed and documented the presence of numerous tanks (ranging in size from 100 – 5,000 gallons) and between 100 and 200 drums and small containers of material located throughout the building. Three ASTs as well as a large number of drums and containers with unknown contents were also located outside of the building. Several of the drums and small containers were uncovered, deteriorated, and/or leaking. Further deterioration of the drums may allow additional quantities of hazardous substances to migrate into the environment. Because of these factors, hazardous substances, pollutants, and contaminants in varying forms and quantities have been documented to exist on the Site.

Unrestricted Site access could result in trespassing resulting in an accidental or intentional release of hazardous material, contact with hazardous materials, and/or a reaction generating toxic gases. The close proximity of the Site to residences and other vulnerable areas greatly increases the potential threats to human health and environment.

4) **High levels of hazardous substances or pollutants or contaminants in soil largely near the surface that may migrate;**

NEORSD found crystallized material on the exterior wall of the building along a residential street. Sample results indicated high levels of cyanide (2,858 milligrams per kilogram [mg/kg]), cadmium (7,000 mg/kg), and chromium (47.9 mg/kg). This crystallized material is readily available to small children and residents walking along the sidewalk adjacent to the building. Heavy rains could wash the crystallized material off the building onto the sidewalk and into the street, eventually into the sewer system.

The owner of the property has made an attempt to mitigate the threat of direct contact by covering the exterior wall with sections of plywood. However, many sections had to be replaced due to theft and vandalism. No attempt has been made to decontaminate the wall, excavate potentially contaminated soil at the base of the wall, or to decontaminate the sidewalk.

Spillage of plating solution and sludge onto the floor throughout the facility has been observed on multiple inspections by local and state officials. The spilled

waste can easily migrate throughout the facility due to the severe damage to the roof. The facility frequently experiences standing water on the floor throughout the facility due to precipitation entering the building.

Released contaminants can migrate to soil underneath the concrete either flowing out of the facility, or by infiltrating the concrete floor through cracks and gaps in the floor and entering the soil.

5) **Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;**

Northeastern Ohio receives a substantial amount of precipitation during Spring, and Autumn. Winter temperatures are normally below freezing with regular snowfall. Weather conditions will continue to contribute to the deterioration of the building, and precipitation will continue to cause the tanks to overflow, given the confirmed structural problems at the Site.

There is no heat in the building to prevent freezing and thawing of the containers. Precipitation entering through the roof very likely will cause the contents of open drums and tanks to overflow and could also cause the containers that are currently closed to rust and release their contents onto the floor.

Heavy rains could wash the crystallized material off the building into the street and then the sewer system. The facility's pump house had water and sludge on the floor (likely built up due to rain), and a yellow liquid would flow off site into the streets as noted by an inspection by the NEORSD.

5) **Threat of fire or explosion.**

Even though characteristic hazardous waste for ignitability (D001) were not documented at the Site, there is a moderate threat of fire due to the potential for trespass and vandalism.

As temperatures descend in late autumn and winter, the potential for vagrants to enter the building for shelter and starting a fire for warmth or more likely in search of scrap metal, increases. If a fire were to occur at the Site, it would have the potential to produce toxic gases, irritants, acidic smoke that would impact the residential community and potentially require an evacuation. Contaminated runoff from fire fighting activities would enter the sewer system. In addition, the fire safety systems (alarms and sprinkler systems) are inoperable as noted by the fire department inspection of the facility.

6) **The availability of other appropriate Federal or State response mechanisms to respond to the release;**

In a letter dated April 14, 2008, Mr. Harry Sarvis, OEPA- Division of Hazardous Waste Management, Compliance Assurance Section, formally requested U.S.

EPA assistance in conducting a hazardous waste removal assessment and possible time-critical removal action at the DLH Plating, LLC. Site located at 2801 Grand Avenue, Cleveland, Cuyahoga County, Ohio.

IV. ENDANGERMENT DETERMINATION

Given the Site conditions, the nature of the known and suspected hazardous substances on the Site, and the potential exposure pathways described in Sections II and III, actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response actions selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. EMERGENCY EXEMPTION FROM STATUTORY LIMITS

Section 104(c)(1) of CERCLA as amended by SARA, limits a Federal emergency response to $2 million unless three criteria are met. The quantities and levels of hazardous substances found at the DLH Plating Site warrant the $2 million exemption request based on the following factors:

1) There is an immediate risk to public health or welfare or the environment;

During Site inspections by the NEORSD, OEPA, and the City of Cleveland's Fire Department, the inspectors observed and documented the presence of numerous tanks (ranging in size from 100 – 5,000 gallons) and between 100 and 200 drums and small containers of material located throughout the building. Three ASTs as well as a large number of drums and containers with unknown contents were also located outside of the building. Several of the drums and small containers were uncovered, deteriorated, and/or leaking. Further deterioration of the drums may allow additional quantities of hazardous substances to migrate into the environment.

Unrestricted access to the Site could result in trespassing resulting in an accidental or intentional release of hazardous material, contact with hazardous materials, and/or a reaction generating toxic gases. The close proximity of the Site to residences, approximately 100 feet away, greatly increases the potential threat to human health and environment.

The NEORSD collected a solid sample from crystallized material on an exterior wall of the facility along Evarts Avenue. The sample results documented high levels of cyanide (2,858 milligrams per kilogram [mg/kg]), cadmium (7,000 mg/kg), and chromium (47.9 mg/kg) on the exterior wall of the facility.

2) Continued response actions are immediately required to prevent, limit, or mitigate an emergency;

The location of the tanks and drums of material inside and outside the building, under a leaking roof, and with no secondary containment are such that drinking water and

sensitive ecosystems may be affected. The U.S. EPA, OEPA, NEORSD, and the City of Cleveland's Fire Department documented rain water leaking through the roof and into some of the plating tanks, which may cause them to overflow. Contaminants may flow unimpeded into the street and storm sewer and eventually into Lake Erie.

Numerous communities throughout Ohio utilize water from Lake Erie as their primary source of drinking water. Pollutants that enter the Lake can be retained for a long period of time and impact sensitive ecosystems. The NEORSD has ordered DLH Plating to conduct a groundwater investigation as they believe some of the contaminants that are present in the sewer system have infiltrated via groundwater migration.

Spillage of plating solution and sludge onto the floor throughout the facility has been observed on multiple inspections by local and state officials. The spilled waste can easily migrate throughout the facility due to the severe damage to the roof. The facility frequently experiences standing water on the floor throughout the facility due to precipitation entering the building.

Released contaminants can migrate to soil underneath the concrete either flowing out of the facility, or by infiltrating the concrete floor through cracks and gaps in the floor and entering the soil.

3) Assistance will not otherwise be provided on a timely basis.

In a letter dated April 14, 2008, Mr. Harry Sarvis, OEPA- Division of Hazardous Waste Management, Compliance Assurance Section, formally requested U.S. EPA assistance in conducting a hazardous waste removal assessment and possible time-critical removal action at the DLH Plating, LLC, Site located at 2801 Grand Avenue, Cleveland, Cuyahoga County, Ohio.

Neither Ohio nor the City of Cleveland have the requisite funds necessary to undertake a removal action such as the one described in this Memorandum. An ongoing threat to public health, welfare and the environment continues due to this lack of funding.

The removal response actions proposed below will mitigate threats with the removal of uncontrolled plating wastes and abandoned hazardous chemicals from the facility. The removal response actions proposed below are appropriate and elimination of the abandoned waste hazardous chemicals will eliminate the need for post removal Site control.

This removal response is expected to cost over $2 million. Therefore, an exemption to the $2 million statutory limit is required.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

The OSC proposes to undertake the following response actions to mitigate threats posed by the presence of hazardous substances at the Site:

1. Develop and implement a Site-specific Health and Safety Plan, including an Air Monitoring Plan, and a Site Emergency Contingency Plan;

2. Establish Site Security;

3. Inventory and perform hazard characterization on all substances contained in containers, drums, vats, and tanks;

4. Investigate the potential for soil contamination on the property;

5. Consolidate and package all hazardous substances, pollutants and contaminants for transportation and off-site disposal;

6. Dismantle and decontaminate process equipment, tanks and building components associated with the product process area, as necessary;

7. Transport and dispose of all characterized or identified hazardous substances, pollutants, wastes, or contaminants that pose a substantial threat of release at a RCRA/CERCLA-approved disposal facility in accordance with U.S. EPA's Off-Site Rule (40 CFR § 300.440); and

8. Take any other response actions to address any release or threatened release of a hazardous substance, pollutant or contaminant that the EPA OSC determines may pose an imminent and substantial endangerment to the public health or the environment.

The removal action will be conducted in a manner not inconsistent with the NCP. The OSC has initiated planning for provision of post-removal Site control consistent with the provisions of Section 300.415(l) of the NCP.

The threats posed by open and deteriorated tanks and drums, in addition to numerous unidentified closed drums containing substances considered hazardous substances meet the criteria listed in Section 300.415(b)(2) of the NCP and the response actions proposed herein are consistent with any long-term remedial actions which may be required. However, elimination of hazardous substances, pollutants and contaminants that pose a substantial threat of release are expected to greatly minimize substantial requirements for post-removal Site controls.

The removal action will be conducted in a manner to obtain and preserve information and evidence which may be of use in a civil or criminal investigation of the Site. Actions will also be coordinated with the OEPA to facilitate an orderly transition to their planned Fiscal Year 2009 remedial activities.

The estimated costs to complete the above activities are summarized below. These activities will require an estimated 150 on-site working days to complete.

Detailed cleanup contractor costs are presented in Attachment 1:

REMOVAL PROJECT CEILING ESTIMATE

EXTRAMURAL COSTS:

Regional Removal Allowance Costs: Total Cleanup Contractor Costs (Includes a 15% contingency).	$1,686,002
Other Extramural Costs Not Funded from the Regional Allowance:	
Total START, including multiplier costs	$ 154,810
Subtotal, Extramural Costs	$1,840,812
Extramural Costs Contingency (20% of Subtotal, Extramural Costs)	+ $ 368,162
TOTAL, REMOVAL ACTION PROJECT CEILING	$2,208,974

The response actions described in this memorandum directly address the actual or threatened release of hazardous substances, pollutants, or contaminants at the Site which may pose an imminent and substantial endangerment to public health or welfare or to the environment. These response actions do not impose a burden on affected property disproportionate to the extent to which that property contributes to the conditions being addressed.

Applicable or Relevant and Appropriate Requirements

All applicable and relevant and appropriate requirements (ARARs) of Federal and State law will be complied with to the extent practicable. The OSC sent a letter dated July 7, 2008, requesting ARARs to Wade Balser, OEPA, Northeast District Office, for any applicable state ARARs. Any state ARARs identified in a timely manner will be complied with to the extent practicable.

All hazardous substances, pollutants or contaminants removed off-site pursuant to this removal action for treatment, storage and disposal shall be treated, stored, or disposed at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR § 300.440.

VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Delayed or no action will result in increased potential of the toxic and hazardous substances to release, thereby threatening the environment and the health and welfare of nearby residents and other persons who are in proximity to the Site.

VIII. OUTSTANDING POLICY ISSUES

None

IX. ENFORCEMENT

On June 20, 2008, U.S. EPA issued a General Notice of Potential Liability to the President of DLH Plating and to the Grand Avenue Reality Company leasing the property to DLH Plating. On July 17, 2008, a General Notice Letter of Potential Liability was sent to the Eastern Company, the parent company of a previous owner/operator of the Site. Given the scope and cost of the proposed removal actions at the Site, and considering both information received about DLH Plating Company's very limited funds and the Company's evident poor historic operation of the facility, U.S. EPA has concluded that the Company is not capable of performing the removal actions in a prompt and safe manner.

For administrative purposes, information concerning the enforcement strategy for this Site is contained in the Enforcement Confidential Addendum.

The total EPA costs for this removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be $3,473,366[1]

($2,208,974 + $112,950) + (49.59% x 2,321,924) = $3,473,366

X. RECOMMENDATION

This decision document represents the selected removal action for the DLH Plating Site located in Cleveland, Cuyahoga County, Ohio. This document has been developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based on the Administrative Record for the Site, see Attachment II. Conditions at the Site meet the NCP §300.415(b)(2) criteria for a time-critical removal action and I recommend your approval of the proposed removal action.

[1] Direct Costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgement interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States right to cost recovery.

The total removal project ceiling, if approved, will be $2,208,974. Of this, an estimated $2,054,164 may be used for the cleanup contractor costs. You may indicate your decision by signing below.

APPROVE: Laurence Johnson for RK DATE: 10/23/08
Director, Superfund Division

DISAPPROVE: _____ DATE: _____
Director, Superfund Division

Enforcement Addendum

Figures: A-1 Site Location Map
A-2 Facility Layout Map

Attachments:

I. Detailed Cleanup Contractor Cost Estimate
II. Administrative Record Index
III. Region V EJ Analysis
IV. Independent Government Cost Estimate

cc: D. Chung, U.S. EPA, 5203-G
M. Chezik, U.S. DOI, **w/o Enf. Addendum**
K. Clouse, OEPA, **w/o Enf. Addendum**
Ohio EPA-Central District Office
Lazarus Government Center
P.O. Box 1049
Columbus, OH 43216-1049

Ohio Department of Attorney General, **w/o Enf. Addendum**
30 E. Broad Street, 17th Floor
Columbus, OH 43215-3428

ENFORCEMENT ADDENDUM

DLH PLATING SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO

OCTOBER 2008

(REDACTED 3 PAGES)

ENFORCEMENT CONFIDENTIAL
NOT SUBJECT TO DISCOVERY

FIGURE A-1

DLH PLATING SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO

OCTOBER 2008

SITE LOCATION MAP

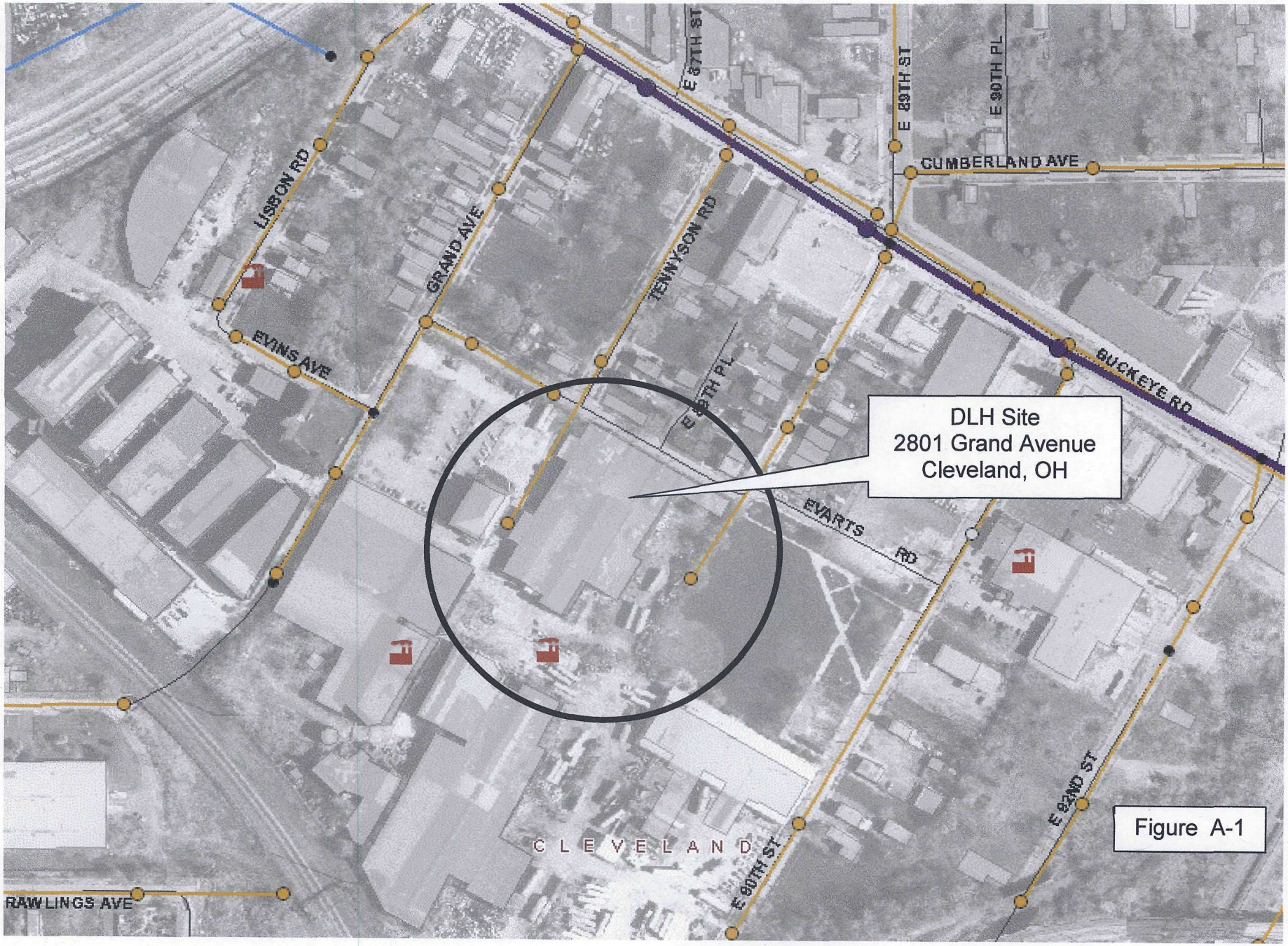

LISBON RD
GRAND AVE
TENNYSON RD
E 87TH ST
E 89TH ST
E 90TH PL
CUMBERLAND AVE
BUCKEYE RD
EVINS AVE
E 89TH PL
DLH Site
2801 Grand Avenue
Cleveland, OH
EVARTS RD
E 92ND ST
E 90TH ST
CLEVELAND
RAWLINGS AVE

Figure A-1

FIGURE A-2

DLH PLATING SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO

OCTOBER 2008

FACILITY LAYOUT MAP

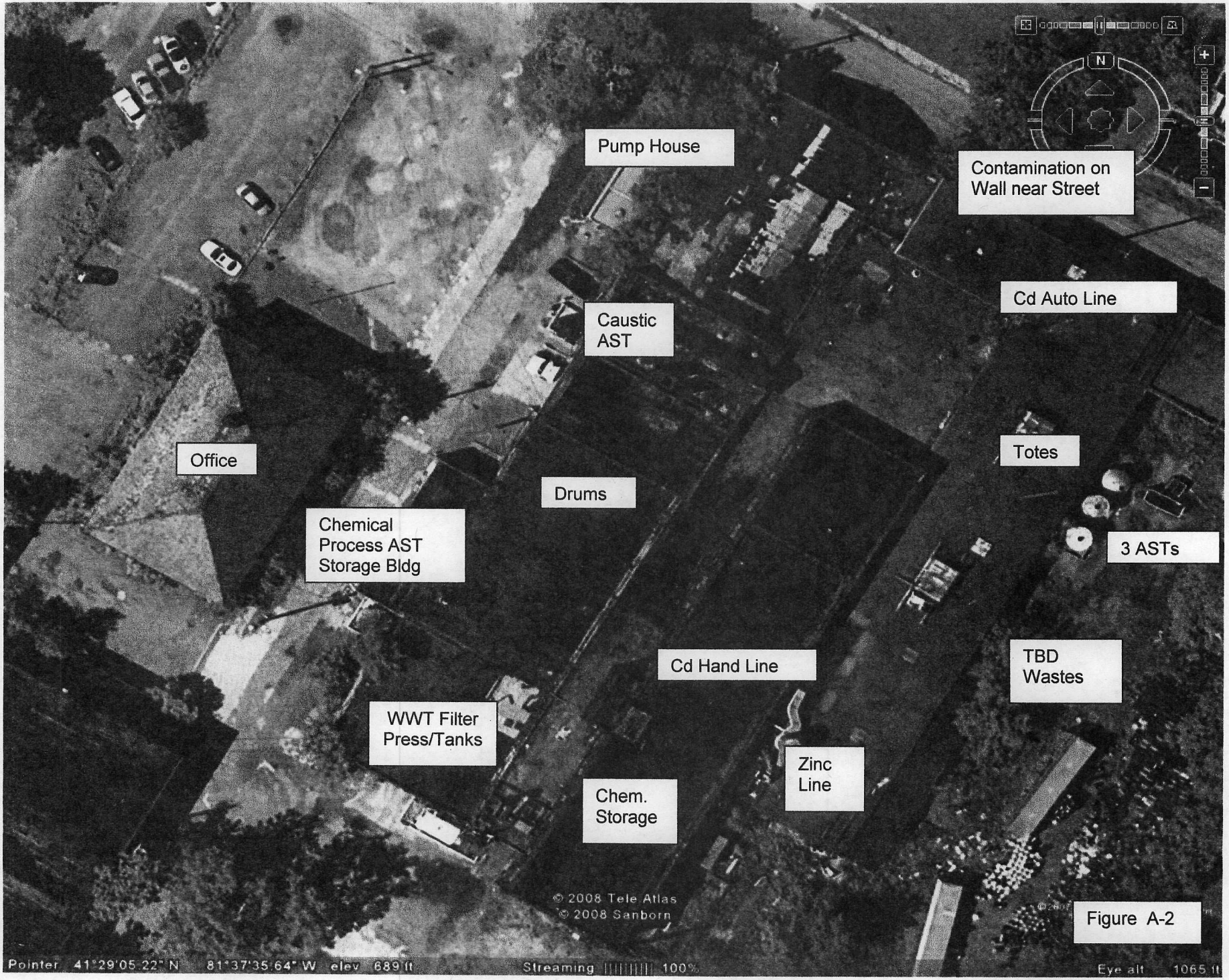

Pump House
Contamination on Wall near Street
Cd Auto Line
Caustic AST
Office
Totes
Drums
Chemical Process AST Storage Bldg
3 ASTs
Cd Hand Line
TBD Wastes
WWT Filter Press/Tanks
Zinc Line
Chem. Storage
© 2008 Tele Atlas
© 2008 Sanborn
Pointer 41°29'05.22" N 81°37'35.64" W elev 689 ft
Streaming 100%
Eye alt 1065 ft

Figure A-2

ATTACHMENT 1

DETAILED CLEANUP CONTRACTOR COST ESTIMATE
INDEPENDENT GOVERNMENT CLEANUP CONTRACTOR ESTIMATE

DLH PLATING SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO

OCTOBER 2008

The estimated cleanup contractor (ERRS) costs necessary to complete the removal action at the DLH Plating Site are as follows:

Personnel & Equipment	$ 802,419
Materials	$ 352,470
Sampling and Analysis	$ 25,000
Transportation and Disposal	$ 286,200
Total	$ 1,466,089
Plus 15% Contingency	$ 219,913
Total ERRS Contractor Costs	**$1,686,002**

ATTACHMENT 2

U.S. ENVIRONMENTAL PROTECTION AGENCY
REMOVAL ACTION

ADMINISTRATIVE RECORD
FOR
DLH PLATING SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO

ORIGINAL
OCTOBER 9, 2008

NO.	DATE	AUTHOR	RECIPIENT	TITLE/DESCRIPTION	PAGES
1	04/14/08	Sarvis, H., Ohio EPA	Durno, M., U.S. EPA	Ohio EPA Time Critical Removal Action Referral Package	134
2	04/15/08	Broski, S., Northeast Ohio Regional Sewer District	Harper, D., DHL Plating & F. Nagorney, Grand Avenue Realty Company	Letter re: Notice of Violation at the DHL Plating Facility	2
3	04/15/08	Balser, W., Ohio EPA	Harper, D., DHL Plating & F. Nagorney, Grand Avenue Realty Company	Letter re: Notice of Violation at the DHL Plating Facility	7
4	04/16/08	Ciaccia, J., Northeast Ohio Regional Sewer District	Harper, D., DHL Plating & F. Nagorney, Grand Avenue Realty Company	Letter re: Emergency Termination of Sewer Service Connection at All Facilities Owned and Operated at 2800 Grand Avenue	3
5	06/20/08	Nachowicz, L., U.S. EPA	Harper, D., DHL Plating, LLC	General Notice of Potential Liability re: the DHL Plating Site	6
6	06/20/08	Nachowicz, L., U.S. EPA	Nagorney, F., Grand Avenue Realty Company	General Notice of Potential Liability re: the DHL Plating Site	6
7	07/07/08	Augustyn, J., U.S. EPA	Balser, W., Ohio EPA	Letter re: U.S. EPA's Request that the Ohio EPA Identify all ARARS for the DHL Plating Site	1
8	07/14/08	Pianka, R., Judge Cleveland Municipal Court	Defendants	Agreed Judgment Entry Case No. 08-14402	3
9	07/17/08	Nachowicz, L., U.S. EPA	Leganza, L., The Eastern Company	General Notice of Potential Liability re: the DHL Plating Site	3

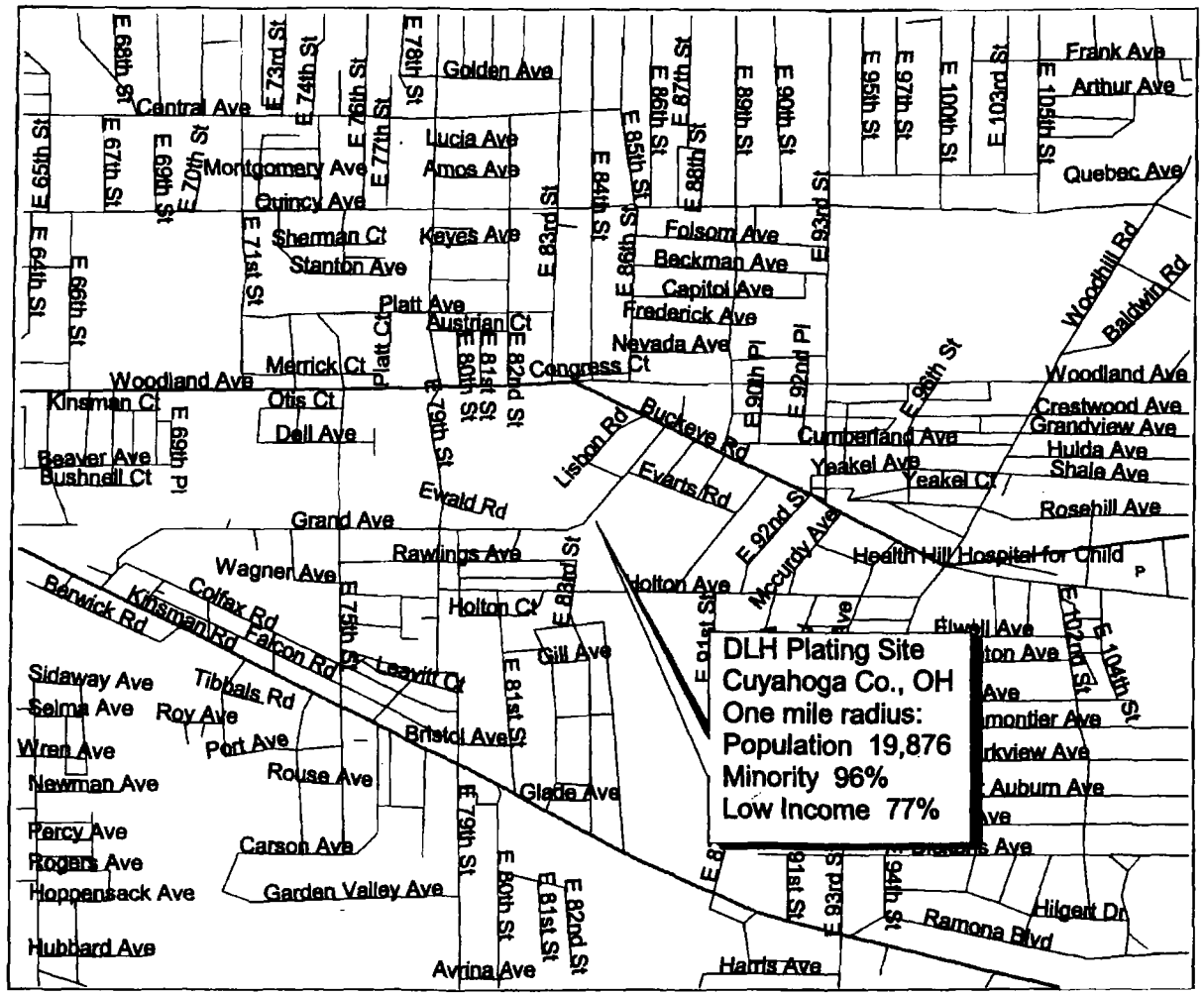
NO.	DATE	AUTHOR	RECIPIENT	TITLE/DESCRIPTION	PAGES
10	00/00/00	Augustyn, J., U.S. EPA	Karl, K., U.S. EPA	Action Memorandum: Request for a Time Critical Removal Action and for an Exemption from the $2 Million Statutory Limit at the DHL Plating Site **(PENDING)**	

ATTACHMENT 3

REGION 5 EJ ANALYSIS

Region 5 Superfund EJ Analysis

DLH Plating Site Cleveland, OH



State of Ohio averages:
Minority: 16%
Low Income: 30%

U.S. EPA Region 5
Environmental Justice Case Criteria
for State of Ohio

Minority: 32% or greater

Low Income: 60% or greater

Date of Map: 4/15/08

Source of Map: Census 2000 Database/ ArcView 3.0

ATTACHMENT 4

INDEPENDENT GOVERNMENT COST ESTIMATE

DLH PLATING SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO

OCTOBER 2008

NOT RELEVANT TO THE SELECTION OF THE REMOVAL ACTION

(REDACTED 2 PAGES)